

required by paragraph (a)(1), (a)(2), or (a)(4) of this section; or

(4) Providing services, other than clerical services or service as a fact witness, on behalf of any other person in connection with a particular matter:

(i) In which the United States is a party;

(ii) In which the United States has a direct and substantial interest; or

(iii) If the provision of services involves the preparation of materials for submission to, or representation before, a Federal court or executive branch agency.

(b) *Submission of requests for approval.*

(1) Requests for approval shall be submitted in writing to SIGAR's Inspector General or Inspector General's designee through normal supervisory channels. Such requests shall include, at a minimum, the following:

(i) The employee's name and position title;

(ii) The name and address of the person or organization for whom or for which the outside activity is to be performed;

(iii) A description of the proposed outside activity, including the duties and services to be performed while engaged in the activity; and

(iv) The proposed hours that the employee will engage in the outside activity, and the approximate dates of the activity.

(2) Together with the employee's request for approval, the employee shall provide a certification that:

(i) The outside activity will not depend in any way on nonpublic information;

(ii) No official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside activity; and

(iii) The employee has read subpart H ("Outside Activities") of 5 CFR part 2635.

(3) Upon a significant change in the nature or scope of the outside activity or in the employee's official position, the employee shall submit a revised request for approval.

(c) *Approval of requests.* Approval shall be granted only upon a determination by SIGAR's Inspector General or Inspector General's designee, in consultation with the General Counsel and the Director of Public Affairs, that the outside activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(d) *Definitions.* For purposes of this section:

(1) *Active participant* has the meaning set forth in 5 CFR 2635.502(b)(1)(v).

(2) *Nonpublic information* has the meaning set forth in 5 CFR 2635.703(b).

(3) *Professional services* means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1).

(4) *Prohibited source* has the meaning set forth in 5 CFR 2635.203(d).

(5) *Relates to the employee's official duties* has the meaning set forth in 5 CFR 2635.807(a)(2)(i)(B) through (a)(2)(i)(E).

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CHAPTER LXXXIV—BUREAU OF CONSUMER FINANCIAL PROTECTION

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PART 9401—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159; 3 CFR, 1898 Comp., p.215, as modified by E.O. 12731, 55 FR 42547; 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502 and 2635.803.

SOURCE: 77 FR 25019, Apr. 27, 2012, unless otherwise noted.

§ 9401.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635 (OGE Standards) and prescribe the standards of ethical conduct applicable to employees of the Bureau of Consumer Financial Protection (Bureau).

(b) *Other regulations, guidance and procedures.* Employees are required to comply with the OGE Standards and the CFPB Ethics Regulations, as well as with guidance and procedures issued by the Bureau pursuant to 5 CFR 2635.105(c). Employees also are subject to all other government-wide regulations concerning executive branch eth-

ics including without limitation, financial disclosure regulations contained in 5 CFR part 2634, regulations concerning financial interests contained in 5 CFR part 2640, post-employment conflict of interest restrictions contained in 5 CFR part 2641, outside earned income limitations and employment and affiliation restrictions applicable to certain noncareer employees contained in 5 CFR part 2636, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735.

§ 9401.102 Definitions.

For purposes of this part:

CFPB Ethics Regulations means the supplemental ethics standards set forth in this part.

Control means the possession, direct or indirect, of the power or authority to manage, direct, or oversee.

Credit has the meaning set forth in 12 U.S.C. 5481(7) and as further defined in regulations promulgated by the Bureau to implement that statute. A person may have credit without any outstanding balance owed.

Debt or equity interest includes without limitation, secured and unsecured bonds, debentures, notes, securitized assets, commercial papers, and preferred and common stock. The term encompasses both current and contingent ownership interests; a beneficial or legal interest derived from a trust; a right to acquire or dispose of any long or short position in debt or equity interests; interests convertible into debt or equity interests; and options, rights, warrants, puts, calls, straddles, derivatives, and other similar interests. It does not include deposits; credit union shares; a future interest created by someone other than the employee or the employee's spouse or dependent child; or a right as a beneficiary of an estate that has not been settled.

Dependent child has the meaning set forth in 5 CFR 2634.105(d). It includes an employee's son, daughter, stepson, or stepdaughter if:

(1) Unmarried, under the age of 21, and living in the employee's household; or

(2) Claimed as a "dependent" on the employee's income tax return.

Designated Agency Ethics Official (DAEO) means the official within the Bureau that the Director has appointed to coordinate and manage the ethics program at the Bureau, under 5 CFR 2638.202(b). For purposes of this part, the term “DAEO” also includes the Alternate DAEO appointed under 5 CFR 2638.202(b), and a designee of the DAEO or Alternate DAEO unless a particular provision says an authority is reserved to the DAEO.

Director means the Director of the Bureau.

Domestic partner means a person with whom a Bureau employee:

(1) Has a close and committed personal relationship and both parties are at least 18 years of age, are each other’s sole domestic partner, and intend to remain in the relationship indefinitely, and neither is married to, in a civil union with, or partnered with any other spouse or domestic partner;

(2) Is not related by blood in a manner that would bar marriage under the laws of the jurisdiction in which the employee resides;

(3) Is in a financially interdependent relationship in which both agree to be responsible for each other’s common welfare and share in financial obligations; and

(4) Has shared for at least six months the same regular and permanent residence in a committed relationship and both parties intend to do so indefinitely, or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle.

Employee means an employee of the Bureau, including a special Government employee.

Entity supervised by the Bureau means a person that is subject to the Bureau’s supervision authority pursuant to 12 U.S.C. 5514(a)(1) or 5515(a) and in regulations promulgated thereunder, as identified on a list to be maintained by CFPB.

Indebted or indebtedness means a legal obligation under which an individual or borrower received money or assets on credit, and currently owes payment.

Indebted to an entity means an obligation to make payments to an entity as a result of an indebtedness, whether originally made with that entity or

with another entity. This includes without limitation, a servicer on a mortgage to whom payments are made.

OGE Standards mean the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

Participate means personal and substantial participation and has the meaning set forth in 5 CFR 2635.402(b)(4). An employee participates when, for example, he or she makes a decision, gives approval or disapproval, renders advice, provides a recommendation, conducts an investigation or examination, or takes an official action in a particular matter, and such involvement is of significance to the matter. It requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.

Particular matter has the meaning set forth in 5 CFR 2635.402(b)(3). The term includes a matter that involves deliberation, decision, or action and is focused upon the interests of specific persons or a discrete and identifiable class of persons. It may include governmental action such as legislation, regulations, or policy-making that is narrowly focused on the interest of a discrete and identifiable class of persons.

Particular matter involving specific parties has the meaning set forth in 5 CFR 2641.201(h). Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties. The term includes without limitation, a contract, audit, enforcement action, examination, investigation, litigation proceeding, or request for a ruling.

Person has the same meaning set forth in 5 CFR 2635.102(k). It includes without limitation, an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution.

Special Government employee has the meaning set forth in 5 CFR 2635.102(l).

Spouse means an employee’s husband or wife by lawful marriage, but does not include an employee’s spouse if:

(1) The employee and the employee’s spouse are legally separated;

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(2) The employee and the employee's spouse live apart;

(3) There is an intention to end the marriage or separate permanently; and

(4) The employee has no control over the legally separated spouse's debt or equity interests.

§ 9401.103 Prior approval for outside employment.

(a) *General requirement.* Before engaging in outside employment, an employee must obtain written approval from the employee's supervisor and the concurrence of the DAEO, except to the extent that the Bureau has issued an instruction or internal directive pursuant to paragraph (e) of this section exempting an activity or class of activities from this requirement.

(b) *Definition of employment.* For purposes of this section, "employment" means any form of non-Federal employment, business relationship, or activity involving the provision of personal services by the employee, regardless of whether the services are compensated. It includes without limitation, personal services as an officer, director, employee, agent, advisor, attorney, consultant, contractor, general partner, trustee, teacher, speaker, or writer.

NOTE TO § 9401.103(b): Both 18 U.S.C. 203(d) and 205(e) require special approval for certain representational activities in claims against and other matters affecting the interests of the Government. Thus, an employee who wishes to act as agent or attorney for or otherwise represent his or her parents, spouse, child, or a person for whom or for an estate for which he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters as described in those statutes shall obtain the approval of the Government official responsible for the employee's appointment in addition to the regulatory approval required in this section.

(c) *Standard for approval.* Approval will be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute, the OGE Standards, or the CFPB Ethics Regulations in this part.

(d) *Renewed request for approval.* Upon a significant change in either the nature, scope, or duties of the employee's outside employment or in the employ-

ee's official Bureau position, the employee shall submit a new request for approval.

(e) *DAEO responsibilities.* The DAEO may issue instructions or internal directives governing the submission of requests for approval of outside employment and designating appropriate officials to act on such requests. The instructions or internal directives may exempt categories of employment from the prior approval requirement of this section based on a determination that employment within those categories generally would be approved and is not likely to involve prohibited conduct or create an appearance of lack of impartiality.

§ 9401.104 Additional rules concerning outside employment for covered employees.

(a) *Prohibited outside employment.* A covered employee shall not engage in compensated outside employment for an entity supervised by the Bureau or for an officer, director, or employee of such entity.

(b) *Definition of employment.* For purposes of this section, "employment" has the same meaning as set forth in § 9401.103(b) of this part.

(c) *Definition of covered employee.* For purposes of this section, "covered employee" means:

(1) An employee serving in an examiner position;

(2) An employee serving in an attorney position;

(3) An employee in the Office of Research, serving as a section chief at CFPB pay band 71 or above or as a senior economist in the Compliance Analysis Section;

(4) An employee serving in an investigator, paralegal, or financial analyst position in the Office of Enforcement;

(5) An employee required to file a Public Financial Disclosure Report (OGE Form 278) under 5 CFR part 2634; or

(6) Any other Bureau employee specified in a Bureau order or directive whose duties and responsibilities, as determined by the DAEO, require application of the prohibition on outside employment contained in this section to ensure public confidence that the

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Bureau's programs are conducted impartially and objectively.

§ 9401.105 Additional rules concerning outside employment for Bureau attorneys.

(a) *Prohibited outside practice of law.* In addition to the prior approval requirements under § 9401.103 and the outside employment restrictions under § 9401.104 of this part, an employee serving in an attorney position shall not engage in the practice of law outside his or her official Bureau duties that might require the attorney to:

(1) Take a position that is or appears to be in conflict with the interests of CFPB; or

(2) Interpret any statute, regulation, or rule administered or issued by the Bureau.

(b) *Exemption for self representation.* Nothing in this section prevents a Bureau attorney from acting as an agent or attorney for or otherwise representing himself or herself in the outside practice of law, except:

(1) In those matters in which the employee has participated personally and substantially as a Government employee; or

(2) In those matters which are the subject of the employee's official responsibility.

§ 9401.106 Prohibited financial interests.

(a) *Prohibited interests.* Except as permitted by this section, an employee or an employee's spouse or minor child shall not own or control a debt or equity interest in an entity supervised by the Bureau.

(b) *Exceptions.* Interests prohibited in paragraph (a) of this section do not include the ownership or control of a debt or equity interest in:

(1) *Mutual funds.* A publicly traded or publicly available mutual fund or other collective investment fund if:

(i) The fund does not have a stated policy of concentration in the financial services industry or the banking industry; and

(ii) Neither the employee nor the employee's spouse exercises or has the ability to exercise control over or selection of the financial interests held by the fund.

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(2) *Pension plans.* A widely held, diversified pension or other retirement fund that is administered by an independent trustee or custodian. Such a fund is diversified if it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the United States Government) and no more than 20% in any particular economic or geographic sector (other than the United States).

(3) *Federal retirement and thrift savings plans.* Funds administered by the Thrift Plan for Employees of the Federal Reserve System, the Retirement Plan for Employees of the Federal Reserve System, the Thrift Savings Plan, or a Federal government agency.

(c) *Disqualification.* If an employee or an employee's spouse or minor child owns or controls a debt or equity interest that is prohibited under paragraph (a) of this section, the employee shall immediately disqualify himself or herself from participating in all particular matters involving an entity with which the employee or the employee's spouse or minor child has a debt or equity interest, unless and until the employee is granted a waiver pursuant to paragraph (d) of this section and the waiver includes an authorization allowing the employee to participate in such matters.

(d) *Waivers.* Upon request by the employee, the DAEO has the authority to grant an individual waiver under this paragraph, which authority may be delegated only to the Alternate DAEO. The DAEO, in consultation with senior management in the Division in which the employee works, may issue a written waiver permitting the employee or the employee's spouse or minor child to own or control a particular debt or equity interest that otherwise would be prohibited by this section, if:

(1) Mitigating circumstances exist due to the way the employee or the employee's spouse or minor child acquired ownership or control of the debt or equity interest. Mitigating circumstances may include, but are not limited to:

(i) The employee or the employee's spouse or minor child acquired the debt or equity interest through inheritance, gift, merger, acquisition, or other

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change in corporate structure, or otherwise without specific intent on the part of the employee or the employee's spouse or minor child; or

(ii) The employee's spouse received the debt or equity interest as part of a compensation package in connection with employment or prior to marriage to the employee;

(2) The employee makes a prompt and complete written disclosure of the debt or equity interest to the DAEO; and

(3) The disqualification of the employee from participating in particular matters involving an entity with which the employee or the employee's spouse or minor child has a debt or equity interest, as specified in the written waiver, would not unduly interfere with the full performance of the employee's duties.

(e) *Covered third party entities.* Immediately after becoming aware that a covered third party entity owns or controls a debt or equity interest that an employee would be prohibited from owning or controlling under paragraph (a) of this section, the employee shall report the interest in writing to the DAEO. The DAEO may require the employee to terminate the relationship with the covered third party entity, disqualify himself or herself from certain particular matters, or take other action as necessary to avoid a statutory violation, or a violation of the OGE Standards or the CFPB Ethics Regulations, including an appearance of misuse of position or loss of impartiality. For purposes of this paragraph (e), "covered third party entity" includes:

(1) A partnership in which the employee or the employee's spouse or minor child is a general partner;

(2) A partnership or closely held corporation in which the employee or the employee's spouse or minor child individually or jointly holds more than a 10 percent equity interest;

(3) A trust in which the employee or the employee's spouse or minor child has a legal or beneficial interest;

(4) An investment club or similar informal investment arrangement between the employee or the employee's spouse or minor child, and others;

(5) A qualified profit sharing, retirement, or similar plan in which the employee or the employee's spouse or minor child has an interest; or

(6) An entity in which the employee or the employee's spouse or minor child individually or jointly holds more than a 25 percent equity interest.

§ 9401.107 Prohibition on acceptance of credit on preferential terms from an entity supervised by the Bureau.

An employee, and the employee's spouse or minor child, may not accept credit from or enter into any other financial relationship with an entity supervised by the Bureau, if the credit or financial relationship contains terms that are more favorable than those offered to the public in comparable circumstances.

§ 9401.108 Restrictions on seeking, obtaining, or renegotiating credit from an entity that is or represents a party to a matter to which an employee is assigned or may be assigned.

(a) *Prohibition on employee seeking, obtaining, or renegotiating credit or indebtedness.* (1) While an employee is assigned to participate in a particular matter involving specific parties, the employee shall not seek, obtain, or renegotiate credit or indebtedness with an entity that is or represents a party to the matter. This prohibition also applies to a particular matter involving specific parties pending at the Bureau in which the employee is not currently participating but of which the employee is aware and believes it is likely that he or she will participate.

(2) The prohibition in paragraph (a)(1) of this section continues for two years after the employee's participation in the particular matter has ended.

(b) *Prohibition on employee's spouse or minor child seeking, obtaining, or renegotiating credit or indebtedness.* The prohibition in paragraph (a) of this section shall apply to the spouse or minor child of an employee unless:

(1) The credit or indebtedness is supported only by the income or independent means of the spouse or minor child;

(2) The credit or indebtedness is obtained on terms and conditions no

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more favorable than those offered to the general public; and

(3) The employee does not participate in the negotiation for the credit or indebtedness or serve as co-maker, endorser, or guarantor of the credit or indebtedness.

(c) *Disqualification requirement for credit sought by person related to an employee.* An employee shall disqualify himself or herself from participating in a particular matter involving specific parties as soon as he or she learns that any of the following persons are seeking, obtaining, or renegotiating credit or indebtedness with an entity that is or represents a party to the matter:

(1) The employee's spouse, domestic partner, or dependent child;

(2) A partnership in which the employee or the employee's spouse, domestic partner, or dependent child is a general partner;

(3) A partnership or closely held corporation in which the employee or the employee's spouse, domestic partner, or dependent child individually or jointly owns or controls more than a 10 percent equity interest;

(4) A trust in which the employee or the employee's spouse, domestic partner, or dependent child has a legal or beneficial interest;

(5) An investment club or similar informal investment arrangement between the employee or the employee's spouse, domestic partner, or dependent child, and others;

(6) A qualified profit sharing, retirement, or similar plan in which the employee or the employee's spouse, domestic partner, or dependent child has an interest; or

(7) An entity in which the employee or the employee's spouse, domestic partner, or dependent child individually or jointly holds more than a 25 percent equity interest.

(d) *Exemptions.* The following forms of credit are exempted from the prohibition in paragraphs (a) and (b) of this section and the disqualification requirement in paragraph (c) of this section:

(1) Revolving consumer credit or charge cards issued by insured depository institutions or insured credit unions on terms and conditions no

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more favorable than those offered to the general public; and

(2) Overdraft protection on checking accounts and similar accounts at insured depository institutions or insured credit unions on terms and conditions no more favorable than those offered to the general public.

(e) *Waivers.* The DAEO, after consultation with senior management in the Division in which the employee works, may grant a written waiver from the prohibition in paragraphs (a) or (b) of this section or the disqualification requirement in paragraph (c) of this section, based on a determination that participation in matters otherwise prohibited by this section would not be prohibited by law (18 U.S.C. 208) or create an appearance of loss of impartiality or use of public office for private gain, and would not otherwise be inconsistent with the OGE Standards or the CFPB Ethics Regulations.

§ 9401.109 Disqualification of employees from particular matters involving creditors.

(a) *Disqualification required.* Absent an authorization pursuant to paragraph (d) of this section, an employee shall not participate in a particular matter involving specific parties if the employee is aware that any of the following have credit with or are indebted to an entity that is or represents a party to the matter:

(1) The employee;

(2) The employee's spouse, domestic partner, or dependent child;

(3) A partnership in which the employee or the employee's spouse, domestic partner, or dependent child is a general partner;

(4) A partnership or closely held corporation in which the employee or the employee's spouse, domestic partner, or dependent child individually or jointly owns or controls more than 10 percent of its equity;

(5) A trust in which the employee or the employee's spouse, domestic partner, or dependent child has a legal or beneficial interest;

(6) An investment club or similar informal investment arrangement between the employee or the employee's spouse, domestic partner, or dependent child, and others;

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(7) A qualified profit sharing, retirement, or similar plan in which the employee or the employee's spouse, domestic partner, or dependent child has an interest; or

(8) An entity in which the employee or the employee's spouse, domestic partner, or dependent child individually or jointly holds more than a 25 percent equity interest.

(b) *Forms of credit and indebtedness exempted.* The following forms of credit and indebtedness are exempted from the disqualification requirement in paragraph (a) of this section, as long as the person listed in paragraphs (a)(1) through (a)(8) of this section is not in an adversarial position (e.g., delinquent in payments; disputing the terms or conditions of the account; subject to debt collection measures like wage garnishment; involved in any disagreement that may cast doubt on the employee's ability to remain impartial) with the entity that extended the credit or to which the indebtedness is owed, and the credit or indebtedness was offered on terms and conditions no more favorable than those offered to the general public:

(1) Revolving consumer credit or charge cards issued by insured depository institutions or insured credit unions;

(2) Overdraft protection on checking accounts and similar accounts at insured depository institutions or insured credit unions;

(3) Amortizing indebtedness on consumer goods (e.g., automobiles);

(4) Educational loans (e.g., student loans; loans taken out by a parent or guardian to pay for a child's education costs); and

(5) Loans on residential homes (e.g., home mortgages; home equity lines of credit).

(c) *Credit or indebtedness of employee's spouse, domestic partner, dependent child, or other specified persons.* An employee's disqualification under paragraph (a) of this section is not required if:

(1) The credit or indebtedness is solely the responsibility of the person listed in paragraphs (a)(2) through (a)(8) of this section; and

(2) The credit or the liability for repayment of the indebtedness is not dependent on, attributable to, or derived

from the employee's income, assets, or activities.

(d) *Authorization to participate.* The DAEO may authorize an employee to participate in a matter that would require disqualification under paragraph (a) of this section, using the authorization process set forth in 5 CFR 2635.502(d) of the OGE Standards. The DAEO will consult with senior management in the Division in which the employee works before issuing such an authorization.

§9401.110 Prohibited recommendations.

An employee shall not make recommendations or suggestions, directly or indirectly, concerning the acquisition or sale or other divestiture of a debt or equity interest of an entity supervised by the Bureau, or an entity that is or represents a party to a particular matter involving specific parties to which the employee is assigned.

§9401.111 Restriction on participating in matters involving covered entities.

(a) An employee shall not participate in a particular matter involving specific parties if a covered entity is or represents a party to the matter, unless the employee receives authorization from the DAEO. For purposes of this paragraph, a "covered entity" is a person for whom the employee is aware the employee's spouse, domestic partner, fiancé, child, parent, sibling, or member of the employee's household is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee.

(b) The DAEO may authorize the employee to participate in the matter using the authorization process set forth in 5 CFR 2635.502(d) of the OGE Standards. The DAEO will consult with senior management in the Division in which the employee works before issuing such an authorization.

§9401.112 Prohibited purchase of assets.

An employee, or an employee's spouse or minor child, shall not purchase, directly or indirectly, any real

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or personal property from an entity supervised by the Bureau, unless it is sold at public auction or by other means which assures that the selling price reflects the asset's fair market value.

§ 9401.113 Waivers.

The DAEO may grant a written waiver from any provision of this part where the DAEO finds good cause to do so; provided, however, that the DAEO will not do so unless the DAEO finds that the waiver is not inconsistent

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with the OGE Standards or otherwise prohibited by law and that, under the particular circumstances, application of the provision being waived is not necessary in order to avoid a violation of an ethics rule. Each waiver must be in writing and supported by a statement of facts and findings and may impose appropriate conditions, such as requiring the employee to execute a written disqualification statement.

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